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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/434,161	11/04/1999	TAKEO OHISHI	041-1903A	3559

7590 10/20/2004
ISRAEL GOPSTEIN
CLARK & BRODY
1750 K STREET NW
SUITE 600
WASHINGTON, DC 20006

EXAMINER

BOCCIO, VINCENT F

ART UNIT PAPER NUMBER

2616

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/434,161

Applicant(s)

OHISHI ET AL.

Examiner

Vincent F. Boccio

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 15 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,4,14-16,20-24,28-32 and 38-47 is/are pending in the application.
- 4a) Of the above claim(s) 14-16,23,24,28-32 and 38-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,4,20-22 and 45-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 08/748,643.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 2616.

Response to Arguments

1. Applicant's arguments filed 9/15/04 have been fully considered but they are not persuasive.

{A} Applicant states on page 4,

1} "The received packets do not originally include PCR ...";

2} "... some confusion may have arisen as to the PCR and the time stamps, it is believed that the present amendment clarifies and distinguishes the time stamps from the PCRs";

3} "Van Gestel ... functions differently ... and this cannot be said to anticipate the invention set forth"; also

4} "That is, the packets received, and operated on, by applicant's system do not contain PCR and generate the control clocks from the generated time stamps while the applied reference generates such control clocks from the incoming PCR."

In response, the examiner cites pages 35- and 23- of applicant own disclosure, according to pages 35-,

"The same reference numbers as employed in the above first embodiment refer to the "same parts" and explanation thereof in "detail" will be omitted here."

Therefore, the examiner cites the first embodiment, pages 23-, "Digital I/F C.K.T. 1", and

"Packet of multi-program received and modulated by the digital broadcast receiver ... "SET TOP BOX".

"... set top boxes can be classified into two types:"

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A} "one ... outputs received packets with time stamps ...
added to headers}, and

B} "the second is of the type which ouputs received
packets without adding time stamps to headers of the packets".

In addition, page 60, "... synchronization signals are, ...
produced based on PCR established by MPEG2".

Based on the above passages cites, etc., and the
understanding of the examiner, a few conclusions have been
arrived to such as:

1} "The received packets all originally include PCR ..., in
view of MPEG 2", wherein all embodiments include generation of
synchronization with PCR.

Note, with respect to Figs. 1 & 8 of applicant's
disclosure,

- "Digital IF 1", of Figs. 1 & 8, the same, also
- "A time stamp extracting circuit 11" and wherein
circuit 2, recites "TIME STAMP/PCR extracting C.K.T";
wherein in accord to page 60, the time stamp may be ... PCR to
generate SYNCHRONIZING SIGNALS, using PCR, as understood some
sort of time signals are used to generate sync signals, as is
well known and conventional even in other systems not on the
MPEG level.

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2} Therefore, yes there exists confusion, and the amendment does not clarify and does not distinguish, time stamps from the PCRs.

The claims recite time stamps, but, the reference discloses PCR, since from a point of view of broadness, time stamps are broader than reciting PCR, in view of PCR being a time stamp.

Conclusion, the primary examiner believes based on applicant's disclosures in combination with the examiner's knowledge and the prior art, that,

A} Van Gestel discloses and meets all claim limitations;

B} the elected invention is more directly characterized by Fig. 1, rather than Fig. 8, of applicant's disclosure which is performing detecting PCR time stamp, generating and adding the generated PCR time stamp, in addition to performing the synchronization signal generation for recording, as claimed and disclosed.

In addition, Fig. 8, is directed to common disclosure of performing the synchronization signal generation only and no adding of PCR or time stamps (reference differences between Figs. 1 & 8 of applicant's disclosure), after a careful consideration by the primary examiner in view of the drawings and corresponding disclosures, maintains the rejection using the prior art, which is deemed to anticipate, the claimed invention.

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Claim Objections

1. Claim 20 is objected to because of the following informalities:

Claim 20, line 10, recites "arrival tune",

which the examiner believes should be

"arrival time",

with respect to applicants disclosure and presented claims.

Note this is the second time the examiner had objected, with respect to the miss-spelled word in claim 20.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 3-4, 20-22 and 45-47 are rejected under 35 U.S.C. 102(e) as being anticipated by Van Gestel et al. (US 5,953,483).

Regarding 3-4 and 20-22, the examiner incorporates by reference the rejection from the previous detailed actions and the detailed arguments presented in the final.

Claims 45-47 are analyzed and discussed with respect to the previous rejected claims.

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The examiner will address the added or amended claim language with respect to claims 3, 20 and 22, which recites the limitations of:

- recording packets (reference Fig. 4, "head drum 106", cols. 10 etc.....), to which time stamps having values indicating times of arrival of the input packets are added (Fig. 4, "ADD TIMESTAMP"), is met by the prior art as applied.

It is noted that this newly recited limitation is substantially the same as the limitation cancelled in the same claim.

Also note substantially the same limitation or amendment to claims 20, 22 and also recited in newly presented independent claims 45 and 47.

Conclusion

All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Contact Fax Information

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communication intended for entry)

or:

(703) 308-5359, (for informal or draft communications, please label "PROPOSED" or "DRAFT")


Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Contact Information

2. Any inquiry concerning this communication or earlier communications should be directed to the examiner of record, Monday-Thursday, 8:00 AM to 5:00 PM Vincent F. Boccio (703) 306-3022.

Any inquiry of a general nature or relating to the status of this application should be directed to Customer Service (703) 306-0377.

Primary Examiner, Boccio, Vincent
10/17/04


VINCENT BOCCIO
PRIMARY EXAMINER